

S/L 15
21.11.2022
Court. No. 19
GB

W.P.A. 24664 of 2022

Sri Gour Hari Rana
VS
The State of West Bengal & Ors.

*Mr. Tanmoy Mukherjee,
Mr. Souvik Das,
Mr. K.R. Ahmed,
Mr. Rudranil Das.*

...for the Petitioner.

*Mr. Sudipto Panda,
Ms. Munmun Tewary.*

...for the State.

*Mr. Masud Mallik,
Mr. Bhaskar Datta Gupta.*

...for the Respondent Nos.7 & 8.

The petitioner alleges that the respondent nos.7 and 8 have raised certain constructions on a passage allegedly recorded as L.R. Plot Nos.1178, 1179 and 1180 under Mouza-Daisai. Reference has been made to the record of rights in this regard. The petitioner submits that a complaint was filed before the Pradhan, Durmuth-6 Gram Panchayat, which is yet to be disposed of.

The learned advocate for the respondent nos.7 and 8 submits that the entry in the record of rights is erroneous. That no passage ever existed on the said plots. That the said respondents are the exclusive owners of the said plots. That a civil suit is pending with regard to the plots in question. He also submits that no construction has been made on the said plots.

As these disputed questions of facts cannot be decided by this Court and the panchayat authorities have not yet disposed of the complaint lodged by the petitioner, the writ

petition is disposed of with a direction upon the concerned permission granting authority, which is Durmuth-6 Gram Panchayat to dispose of the complaint dated September 11, 2022 which is Annexure-P/5 at Page 21 of the writ petition.

While doing so, the following procedure shall be adopted:-

- a) An inspection shall be conducted. Such inspection shall be held in the presence of the petitioner and the respondent nos.7 and 8. An advance notice of the inspection shall be served upon the petitioner and the respondent nos.7 and 8 and all other interested parties. If the parties are not available to accept notice, the same shall be affixed at a conspicuous place in the respective premises.
- b) In case, it is found on preliminary inspection that there may be reasons to believe that the construction was without permission and had been continuing, the authorities may take such interim measures by stopping such construction.
- c) The report of such inspection shall be prepared along with the sketch map, indicating the extent and nature of unauthorized construction, if any.
- d) Such report shall be handed over to the parties. The question of right, title and possession shall not be decided by the panchayat authorities.
- e) A hearing shall be given to the petitioner and the respondent nos.7 and 8. The parties must also be allowed to furnish their written objection/version to the said report and adduce oral and

documentary evidence in support of their contentions before the competent authority. All points raised by either party, will be decided.

- f) A reasoned order shall be passed and communicated to the parties. On the basis of what transpires at the hearing and during inspection, the proceedings shall be reached to its logical conclusion in terms of Section 23 of the West Bengal Panchayat Act, 1973.

The court has not gone into the merits of the claims of the petitioner and the issues involved shall be decided independently.

The entire exercise shall be completed within a period of four months from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)